IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED: 06-12-2007

CORAM

THE HON'BLE MR.JUSTICE M.JAICHANDREN

Writ Petition No.18997 of 1999

Jayapandian .. Petitioner.

Versus

1.The District Revenue Officer,
Tuticorin, Tuticorin District.

2.The Inspector of Police,
Civil Supplies CID.,
Tirunelveli,
Tirunelveli District. .. Respondents.

Prayer: Petition filed under Article 226 of the Constitution of India praying for the issuance of a Writ of Certiorarified Mandamus, calling for the records relating to the impugned order passed by the first respondent in his proceedings Na.Ka.U.Po.22892/98, dated 23.11.1998 (but mailed by ordinary post only on 10.10.1999 and served on the petitioner subsequently thereafter) and quash the same in so far as it relates to the confiscation of the entire goods viz., 58.20 quintals of boiled rice, 23.28 quintals of raw rice and 21.30 quintals of Wheat are concerned and consequently direct the respondents to release the entire goods to the petitioner.

For petitioner : Mr.C.Prakasam
For respondents : Mr.V.Manoharan
Government Advocate

O R D E R

Heard Mr.C.Prakasam, the learned counsel appearing for the petitioner and Mr.V.Manoharan, the learned Government Advocate appearing for the respondents.

2. The petitioner is carrying on business in paddy and rice under a valid licence issued to him by the competent authority. The petitioner is running his business at No.31, Arisikkadai Street, Saathankulam. The second respondent had inspected the petitioner's place of business, on 22.3.98, and found a mini lorry with Registration No.TN-74-A-8926 loaded with 100 bags of boiled rice. Therefore, the second respondent had seized the mini lorry, as well

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as the stocks in the godown belonging to the petitioner i.e. 24 quintals of raw rice and 25 quintals of wheat, on mere suspicion that the goods were essential commodities meant to be distributed through the ration shops. After the enquiry under Section 6-A of the Essential Commodities Act was completed, the first respondent had passed the impugned order vide proceedings in Na.Ka.U.Po.22892/98, dated 23.11.1998.

3. The main contention of the learned counsel appearing for the petitioner is that the impugned order was passed only on a mere suspicion that the goods were essential commodities meant to be distributed through the ration shops and hence, the impugned order is liable to be set aside.

4. It is submitted by the learned counsel appearing on behalf of the respondent that as against the impugned order passed by the respondent, a statutory appeal is available to the petitioner, under Section 6-C of the Essential Commodities Act, 1955. Section 6-C of the Essential Commodities Act, 1955, reads as follows:

> 6-C.Appeal.- (1) Any person aggrieved by an order of confiscation under Section 6-A may, within one month from the date of the communication to him of such order, appeal to the State Government concerned and the State Government shall, after giving an opportunity to the appellant to be heard, pass such order as it may think fit, confirming, modifying or annulling the order appealed against.
>
> (2) Where an order under Section 6-A is modified or annulled by the State Government, or where in a prosecution instituted for the contravention of the order in respect of which an order of confiscation has been made under Section 6-A, the person concerned is acquitted, and in either case it is not possible for any reason to return the essential commodity seized, such persons shall, except as provided by sub-section (3) of section 6-A, be paid the price therefor as if the essential commodity had been sold to the Government with reasonable interest calculated from the day of the seizure of the essential commodity and such price shall be determined -
>
> (i) in the case of food grains, edible oilseeds or edible oils, in accordance with the provisions of sub-section (3-B) of section 3;
>
> (ii) in the case of sugar, in accordance with the provisions of sub-section (3-C) of section3 ; and
>
> (iii) in the case of any other essential commodity, in accordance with the provisions of sub-section (3) of section 3.

5. However, the learned counsel appearing for the petitioner had submitted that at the time of the filing of the writ petition, the appellate authority had not been designated, as provided under the

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Act. Therefore, the petitioner has come before this Court, by way of filing the present writ petition, under Article 226 of the Constitution of India. It is also submitted that at present the District Court, Tirunelveli, has been designated as the appellate forum, under Section 6-C of the Essential Commodities Act, 1955, to hear and decide the appeals.

6. Considering the facts and circumstances of the case, the petitioner is granted liberty to file an appeal before the designated appellate authority, as provided under the law, within a period of four weeks from the date of receipt of a copy of this order. On such appeal being filed, the appellate authority is expected to dispose of the same expeditiously.

The writ petition is disposed of with the above direction. No costs.

Sd/-
Asst. Registrar.

/true copy/

Sub Asst. Registrar.

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To
1.The District Revenue Officer,
Tuticorin, Tuticorin District.

2.The Inspector of Police,
Civil Supplies CID.,
Tirunelveli,
Tirunelveli District.

+ 1 CC to the Government Pleader SR NO 72808

+ 1 CC To Mr. C.Prakasam, Advocate SR NO.72600

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